

April 2, 1984

LB 692

underlying problem, that problem being the occurrence of malpractice. The amendment that I have up there is formulated on the basis that the legal treatment of medical malpractice should not be separated from the general body of civil law, civil law that was established and has been established by this Legislature and by the courts of Nebraska. The 1976 act which is left substantially intact by LB 692 has created this separation and it has created an undue hardship and a great burden on patients who are seeking meaningful and just recompense. Since 1976 our citizens have been punished. They have been punished because their rights under the general body of civil law have been effectively eliminated because we want to keep insurance rates down for hospitals and doctors and quite frankly that has not happened so we are hurting the citizens to no benefit of the doctors or the hospitals. The amendment will help restore those rights. What it will do is repeal the unconstitutional liability limits. It will repeal the burdensome review panels. It will eliminate, and I hope you are listening, it will eliminate the state administered excess liability fund which was ostensibly created to take care of any massive malpractice awards that were granted by the courts. Of course, this fund has been virtually untouched because the courts have not awarded massive or unreasonable amounts of recompense to injured patients. The courts are reasonable. Beyond that, this fund could put this Legislature in a Commonwealthlike situation. Again, we don't want that. We know the problems we are experiencing with the NDIGC. Well this fund can put us in the same exact situation. I think it is real important that we do this. This is our last chance. This is our last chance to do what is our responsibility, not the courts. They are going to find it unconstitutional but we should take that step. We should not buckle under pressure from special interests. We should consider the citizens who are being hurt by this act. What I am proposing is not radical, it is not new. It is a return to the basic democratic principles and legal principles that this country was founded on. It is a return to the faith that people have in us. We do not offer, we do not merely offer our citizens the right to due process. It is an inherent right, an inalienable right and we need to return to those people